

Table of Contents

State Name: Delaware

State Plan Amendment (SPA) #16-0010

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS-179
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
150 S. Independence Mall West
Suite 216, The Public Ledger Building
Philadelphia, Pennsylvania 19106-3499



Region III/Division of Medicaid and Children's Health Operations

SWIFT# 101920164038

January 12, 2017

Mr. Stephen M. Groff, Director
Division of Medicaid and Medical Assistance
P.O. Box 906
New Castle, DE 19720-0906

Dear Mr. Groff:

We are pleased to inform you of the approval of Delaware State Plan Amendment (SPA) 16-010 to establish coverage and reimbursement methodologies for treatment services for Medicaid recipients up to twenty-one (21) years of age who have a diagnosis of Autism Spectrum Disorder.

Enclosed is a copy of the approved SPA pages and the signed CMS-179 form. The effective date of this amendment is October 1, 2016. If you have any questions, you may contact Michael Cleary at (215) 861-4282.

Sincerely,



Francis T. McCullough
Associate Regional Administrator

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL	1. TRANSMITTAL NUMBER: SPA #16-010	2. STATE DELAWARE
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	

FOR: HEALTH CARE FINANCING ADMINISTRATION	4. PROPOSED EFFECTIVE DATE October 1, 2016
--------------------------------------------------	------------------------------------------------------

5. TYPE OF PLAN MATERIAL (*Check One*):

NEW STATE PLAN AMENDMENT TO BE CONSIDERED AS NEW PLAN AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (*Separate Transmittal for each amendment*)


6. FEDERAL STATUTE/REGULATION CITATION: 1905(a)(4)(B), (a)(6), (a)(13)(c) and 1905(r)(5) of the Social Security Act 42 CFR §440.60(a) 42 CFR §440.130(c) 42 CFR §447.205	7. FEDERAL BUDGET IMPACT: a. FFY <u>2017</u> \$ <u>1,784,218</u> b. FFY <u>2018</u> \$ <u>1,819,902</u>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: ATTACHMENT 3.1-A Page 6 Addendum 1 ATTACHMENT 3.1-A Page 6 Addendum 1a through 1g 4.19-B Page 19 j	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): ATTACHMENT 3.1-A Page 6 Addendum NEW NEW
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------

10. SUBJECT OF AMENDMENT: **Services for Children with Autism Spectrum Disorder**

11. GOVERNOR'S REVIEW (*Check One*):

GOVERNOR'S OFFICE REPORTED NO COMMENT OTHER, AS SPECIFIED:
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED **Governor's comments under separate**
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL **correspondence**

12. SIGNATURE OF STATE AGENCY OFFICIAL: 	16. RETURN TO: Stephen M. Groff Director Division of Medicaid and Medical Assistance P.O. Box 906 New Castle, Delaware 19720-0906
13. TYPED NAME: Stephen M. Groff, Director, Division of Medicaid and Medical Assistance	
14. TITLE: Designee for Rita M. Landgraf, Secretary, Delaware Health and Social Services	
15. DATE SUBMITTED: 10/18/16	

FOR REGIONAL OFFICE USE ONLY	
17. DATE RECEIVED: October 18, 2016	18. DATE APPROVED: January 12, 2017

PLAN APPROVED – ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2016	20. SIGNATURE OF REGIONAL OFFICIAL: Francis T. McCullough /s/
21. TYPED NAME: Fran McCullough	22. TITLE: Associate Regional Administrator

23. REMARKS:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to Treat Autism Spectrum Disorder (ASD) Pursuant to Act, Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services

Covered services are provided in accordance with §1905(a)(4)(B), 1905 (A)(13), and 1905(r) of the Social Security Act. Behavioral assessments and services to treat Autism Spectrum Disorder (ASD) pursuant to EPSDT are provided only to Medicaid beneficiaries under age twenty-one. Pursuant to 42 C.F.R. § 440.130(c), these services are provided as preventive services and are recommended by a physician or other licensed practitioner of the healing arts within his or her scope of practice under state law to prevent the progression of ASD, prolong life, and promote the physical and mental health and efficiency of the child.

Pursuant to section 4385 of the State Medicaid Manual, preventive services must be direct patient care provided to the child for the primary purpose of diagnosing or treating ASD, which is a set of conditions that directly affects the child's mental and physical health.

Prior to receiving an ASD Assessment or ASD Treatment Services, the child must receive a medical / physical evaluation that indicates that ASD Assessment or ASD Treatment services are medically necessary and recognized as therapeutically appropriate. All medically necessary services for children under the age of 21 will be furnished without limitation.

Autism Spectrum Disorder (ASD) Covered Services

(1.) ASD Assessments and Support/Treatment Plans

(a.) Behavioral Assessment

Service Description: Behavior assessments must use a validated assessment instrument and can include direct observational assessment, observation, record review, data collection and analysis. Examples of behavior assessments include function analysis and functional behavior assessments. The behavior assessment must include the current level of functioning of the individual using a validated data collection method. Behavioral assessments and ongoing measurements of improvement must include behavioral outcome tools.

- (1.) The behavioral assessment should be reviewed no less frequently than every six months or as behaviors or the circumstances of the child change.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services Continued

- (2.) Assessment Tool: Behavior Assessment practitioners must use a validated assessment tool or instrument and can include direct observational assessment, observation, record review, data collection and analysis. The Behavior Assessment must include the current level of functioning of the child using a validated data collection instrument or tool.

(b.) Behavioral Plan of Care

- (1.) Service Description: The Behavioral Plan of Care is a detailed plan, based on the Behavioral Assessment of ASD treatment services specifically tailored to address each child's adaptive and/or behavioral needs. The plan includes at least the following: measurable goals and expected outcomes to determine if ASD treatment services are effective; specific description of the recommended amount, type, frequency, setting and duration of ASD treatment services; and amount and type of recommended caregiver ongoing participation in the ASD treatment services necessary to maximize the success of the services. The service includes skill modeling, feedback, and reinforcement to family members or caregivers based on the Behavioral Plan of Care to ensure that treatment strategies outlined in the Plan are being transferred and implemented by the family or caregiver. The service is for the direct benefit of the Medicaid recipient.

(c.) Qualified Providers of ASD Assessments and Behavioral Plan of Care

- (1.) The entire set of practitioner types described in section (3.) Qualified Providers, beginning on Attachment 3.1-A Page 6 Addendum 1f below, with the exception of the Registered Behavior Technician, are qualified to provide this ASD Assessments and the Behavioral Plan of Care, operating within the scope of service for his or her practice.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services Continued

(2.) ASD Treatment Services

(a.) Service Description: ASD treatment services include a variety of behavioral interventions, which have been identified as evidence-based by nationally recognized research reviews and/or other nationally recognized substantial scientific and clinical evidence. These services are designed to be delivered primarily in the home or in other community settings and include any intervention supported by credible scientific and/or evidence, as appropriate to each child

(b.) ASD treatment services include, but are not limited to, the following categories of evidence-based interventions:

- a. Collecting information systematically regarding behaviors, environments, and task demands (e.g., shaping, demand fading, task analysis);
- b. Adapting environments to promote positive behaviors and learning while reducing negative behaviors (e.g., naturalistic intervention, antecedent based intervention, visual supports);
- c. Applying reinforcement to change behaviors and promote learning (e.g., reinforcement, differential reinforcement of alternative behaviors, extinction);
- d. Teaching techniques to increase positive behaviors, build motivation, and develop social, communication, and adaptive skills (e.g., discrete trial teaching, modeling, social skills instruction, picture exchange communication systems, pivotal response training, social narratives, self-management, prompting);
- e. Teaching parents to provide individualized interventions for their child, for the benefit of the child (e.g., parent implemented intervention);
- f. Using typically developing peers (e.g., individuals who do not have ASD) to teach and interact with children with ASD (e.g., peer mediated instruction, structured play groups); and
- g. Applying technological tools to change behaviors and teach skills (e.g., video modeling, tablet-based learning software).

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017

Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services – ASD Treatment Services Continued

- (c.) Prohibited practices in the treatment of ASD include:
- (1.) Aversive interventions;
 - (2.) Seclusion;
 - (3.) Denial of nutritionally adequate diet;
 - (4.) Chemical Restraints;
 - (5.) Mechanical Restraints; and
 - (6.) The use of Behavior Modifying Medications without a formal assessment and diagnosis of a corresponding mental health disorder by physician, advance practice nurse, or physician assistant with prescriptive authority.
- (d.) ASD Service Delivery: ASD treatment services shall be rendered in accordance with the beneficiary's treatment plan. The treatment plan shall:
- (1.) Be person-centered and based upon individualized goals over a specific timeline;
 - (2.) Be developed by a qualified autism service provider for the specific beneficiary being treated;
 - (3.) Delineate both the frequency of baseline behaviors and the treatment planned to address the behaviors;
 - (4.) Identify long, intermediate, and short-term goals and objectives that are specific, behaviorally defined, measurable, and based upon clinical observation;
 - (5.) Include outcome measurement assessment criteria that will be used to measure achievement of behavior objectives;
 - (6.) Utilize evidence-based practices with demonstrated clinical efficacy in treating ASD, that are tailored to the beneficiary;
 - (7.) Ensure that services are consistent with evidenced-based ASD treatment techniques;
 - (8.) Clearly identify the service type, number of hours of direct service and supervision, and any recommended actions on the part of parents or guardians, if applicable, needed to achieve the plan's goals and objectives (caregiver participation is encouraged but not required as a condition of receiving this service);

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services – ASD Treatment Services Continued

(d.) ASD Service Delivery Continued:

- (9.) Clearly identify the frequency at which the child's progress is reported;
- (10.) Clearly identify the individual providers responsible for delivering the services;
- (11.) Include case management to be provided by the ASD service provider involving individuals that are significant in the person's life, school, state disability programs, and others as applicable; and
- (12.) Include recommendations for training, support, and participation of the parent/guardian, and other persons chosen by the child as appropriate, to benefit the Medicaid eligible child, as described in the treatment plan. This recommended participation also acts as training of the caregiver for the benefit of the child and enables the caregiver to be able to reinforce the services for the child in a clinically effective manner. Caregiver participation is encouraged but not required as a condition of receiving this service.

(e.) Limitations on ASD Treatment Services: Total ASD treatment services covered under this section and recommended as part of the Behavior Support Plan or ABA Treatment Plan may only be the amount medically necessary for each child. Plans that recommend more than 40 hours per week require prior authorization.

(f.) Qualified Providers of ASD Treatment Services:

- (1.) The entire set of practitioner types described in section (3.) Qualified Providers, beginning on Attachment 3.1-A Page 6 Addendum 1f below are qualified to provide ASD treatment services operating within the scope of service for his or her practice.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

(3.) Qualified Providers:

Autism Spectrum Disorder services must be provided by qualified practitioners, as specified in the section below. Unlicensed practitioners may operate under the supervision of a licensed practitioner that is responsible for the work and work methods, regularly reviews the work performed, and is accountable for the results. Supervision must adhere to the requirements of the practitioner's licensing board and the supervisory relationship must be documented in writing. Qualified practitioners may also be certified by the Behavior Analyst Certification Board (BACB) under one of the categories listed below, and must act within the scope of their certification, as determined by the BACB.

(a.) Licensed Practitioners

(1.) The following qualified licensed practitioners under Delaware or other State regulation are licensed by a state and may provide ASD services without any other certification: Licensed Clinical Social Workers (LCSWs), Licensed Professional Counselors of Mental Health (LPCMH), advanced practice nurses (APNs), medical doctors (MD and DO), physician assistants, psychiatrists, and psychologists or their assistants. Psychological assistants may only practice under the supervision of a licensed practitioner.

(b.) Unlicensed Professionals

(1.) The following unlicensed practitioners may provide ASD services under the SPA:

(a.) Board Certified Behavior Analyst[®] (BCBA[®]) – is not required to work under the supervision of a licensed practitioner when providing ASD services within the scope of his or her practice. The Behavior Analyst Certification Board (BACB) defines the requirements of this practitioner type. The certification conferred by the BACB includes requisite coursework, supervised field experience and passage of an exam prior to issuance of the certification.

(b.) Board Certified Assistant Behavior Analyst[®] (BCaBA[®]) - can only provide ASD services under the supervision of a BCBA[®]. Supervision requirements for this practitioner type are specified by the Behavioral Analyst Certification Board. The certification conferred by the BACB includes requisite coursework, supervised field experience and passage of an exam prior to issuance of the certification.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017

Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

14.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services – Qualified Providers Continued

- (c.) Registered Behavior Technician - can only provide ASD services under the supervision of a BCaBA® or BCBA®. Supervision requirements for this practitioner type are specified by the Behavioral Analyst Certification Board. The certification conferred by the BACB includes requisite coursework, supervised field experience and passage of an exam prior to issuance of the certification.

- (d.) Psychological assistant - may only practice under the supervision of a licensed practitioner. The supervising Psychologist must register the Psychological Assistant whom he/she is supervising with the Board of Psychology, Delaware Division of Professional Regulation. The supervising licensed Psychologist must have practiced as a licensed psychologist for two years in Delaware or another jurisdiction. The supervising Psychologist must assume full professional, legal, and ethical responsibility for the services provided by the registered Psychological Assistant. As part of registration process, the supervising Psychologist is required to provide to the Board:
 - (1.) Detailed and current, written job description delineating the range and type of duties, educational practicum and clinical experience to be assigned to the Psychological Assistant;
 - (2.) Limits of the Psychological Assistant's independent action, emergency procedures for contacting the supervising Psychologist, and the amount and type of supervision the supervising Psychologist will provide; and
 - (3.) A clear contingency plan for consultation when the licensed Psychologist is not in the office.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

15.c. Preventive Services Continued

Behavioral Services to treat (ASD) Pursuant to Act, (EPSDT) Services Continued

ASD Covered Services – Qualified Providers Continued

(c.) Behavioral Plan of Care

The practitioner who develops the Behavioral Plan of Care should be the same practitioner who performed the Behavior Assessment, except in extenuating circumstances, such as if the practitioner changed employers, moved to another geographic area, or needed to collaborate with another practitioner with different expertise.

Medicaid shall not cover program services or components of services that are of an unproven, experimental, of a research nature, or that do not relate to the child's diagnosis, symptoms, functional limitations or medical history.

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

LIMITATIONS ON AMOUNT, DURATION, AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES
PROVIDED TO THE CATEGORICALLY NEEDY

13.c. Preventive Services

In accordance with section 4106 of the Affordable Care Act, Delaware Medicaid Covers and reimburses all preventative services assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF), all approved vaccines and their administration, recommended by the Advisory Committee on Immunization Practices (ACIP), and behavioral interventions to treat Autism Spectrum Disorder (ASD) without cost-sharing.

Preventative services are any medical or remedial services recommended by a physician or other licensed practitioner of the healing arts acting within the scope of their practice under State law and include all preventative services not otherwise covered under the State Plan pursuant to Section §1905(r)(5) of the Social Security Act, *Early and Periodic Screening, Diagnostic, and Treatment Services*, for other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan. Preventive Services are reimbursed according to the methodologies for services described in Attachment 4.19-B. *Methods and Standards for Establishing Payment Rates – Other Types of Care*, of the State Plan.

The State assures the availability of documentation to support the claiming of federal reimbursement for these preventative services.

The State assures that the benefit package will be updated as changes are made to the USPSTF and ACIP recommendation, and that the State will update the coverage and billing codes to comply with these revisions.

TN No. SPA #16-010

Supersedes

TN No. SPA #14-0007

Approval Date: January 12, 2017

Effective Date October 1, 2016

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: DELAWARE

METHODS AND STANDARDS FOR ESTABLISHING PAYMENT RATES –
OTHER TYPES OF CARE

5. Other EPSDT Services Continued

(f) Services to Treat Autism Spectrum Disorder (ASD) Pursuant to EPSDT as defined per Attachment 3.1-A, Page 6, Addendum 1a -1g:

As available, rates are developed using the Resource Based Relative Value Scale (RBRVS) methodology. Rates are established and updated based on the RBRVS methodology as adopted by the Medicare Fee Schedule Data Base.

If no RVU exists, the agency examines the CMS-approved Medicaid fee-for-service rate schedules of other states for similar services that are comparable in program design, program structure and relative costs to Delaware's services. For those services that are substantially similar, another state's fee for the procedure may be adopted.

The agency's fee schedule rate was set as of October 1, 2016 and is effective for services provided on or after that date. Except as otherwise noted in the plan, fee schedule rates are the same for both governmental and private providers of these services. Rates are published on the agencies website at the link below:

The fee schedule and any annual periodic adjustments to these rates are published on the Delaware Medical Assistance Program (DMAP) website at: <http://www.dmap.state.de.us/downloads/feeschedules.html>

TN No. SPA #16-010
Supersedes
TN No. NEW

Approval Date: January 12, 2017
Effective Date October 1, 2016